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OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

February 25, 1939

GERALD C. MANN
ATTORNEY GENERAL

Mr. G.M. Mann, County Auditor
Hillsboro, Texas

Dear Sir:

Opinion No. O-387
Re: May lateral road construction in
Hill County be superintended by
a non-graduate engineer?

This Department has received your request for an opinion as to whether a person who had studied engineering but who is not a graduate, is qualified to superintend work on lateral roads under the Hill County Road Law.

The Second Called Session of the 36th Legislature amended the Hill County Road Law omitting the requirement that the road superintendent be a "graduate" civil engineer. However, we think the recent statute, Article 327B of our Revised Civil Statutes relating to the licensing of professional engineers would control your situation and your question must be answered in the light of the construction of that statute.

Section 2 of Article 327la reads as follows:

"The practice of professional engineering within the meaning and intent of this Act includes any professional service, such as consultation, investigation, evaluation, planning, designing, or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and interpretation of engineering data."

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Your letter does not disclose whether the job of superintending the proposed lateral road construction in your county involves the application of engineering principles and interpretation of engineering data, but if it does, we think that Article 3271a would require a licensed professional engineer to superintend your road construction. We suggest that you consider the duties that will be required of your road superintendent then read the quoted portion of Section 2, Article 3271a, and if the duties required of the superintendent are covered by any of the phases of this section, you must have a licensed professional engineer.

If you are unable to answer your question from the examination of the statutes and will give us more facts, informing us of the duties of the man to be hired, we will endeavor to apply the law to the situation and answer your question.

You will notice from a consideration of Article 3271a that men may be licensed professional engineers and yet may not be graduate civil engineers. The important requirement is that they be licensed by our State Board of Registration for professional engineers if they are to perform any of the phases of engineering set out in Section 2 of Article 3271a.

We trust that this will enable you to answer your question, if not please submit us the requested additional facts and we will endeavor to answer your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

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BY
HQB Morris Hodges
Morris Hodges
Assistant

APPROVED:

G. M. Mann
ATTORNEY GENERAL OF TEXAS